

REMARKS

Claim 1 is amended to incorporate the substance of Claim 4, and to overcome the rejection based on 35 U.S.C. 101. Claim 3 is cancelled, as the substance of that claim is now incorporated in Claim 1. Claim 8 is amended to incorporate the substance of Claim 4. Claims 13-22 are withdrawn from consideration. Accordingly, Claims 1, 2 and 5-12 remain for consideration.

The objection to Figure 4 of the drawing is noted. A proposed amended drawing sheet is submitted herewith for approval by the Examiner, and a formal substitute sheet will be submitted upon approval and indication of allowable subject matter.

Claims 1-7 stand rejected under 35 U.S.C. 101 as directed to non-statutory subject matter. In response, Claim 1 is amended to define a computer-implemented method comprising the steps recited in that claim. The Applicant submits that Claim 1 as thus amended, and the dependent claims, define a machine-implemented method and thus are statutory within the sense of 35 U.S.C. 101.

Claim 4 was rejected as unpatentable over *Rubin* (US 6,078,897) in view of "Designing a Purchase Order System for Multiple Variables" (*Variables*). Because Claim 1 is amended to incorporate the substance of Claim 4, the Applicant respectfully traverses that rejection as applied to Claim 1 and the claims depending therefrom.

Claim 1 defines the present method for conveying sales options, including specific steps for iterative determination of an offering price for a customer selection employing a progressive discount. Those steps include accessing a predetermined pricing table including a product base price and a discount rate, and summing the product prices according to a specific formula recited in the claim. Using the recited iterative method yields an offering price based on the number of products selected and the discount rate represented by the number of selected products, in addition to the base prices of those selected products.

Rubin discloses a method for optimizing orders to increase a discount and, thus to add to the proposed order. *Rubin* thus operates from the seller's viewpoint, namely, teaching a method for inducing a customer to increase an order beyond the needs of the customer (col. 2, lines 1-3).

Variables, however, describes a methodology for solving a purchase order quantity problem from the perspective of the buyer. *Variables* takes into consideration the shelf life and an uncertain market life of the supplies, and discloses how to determine a minimum quantity for the last order placed before obsolescence. A purchase order in excess of the remaining minimum quantity, while perhaps having a lower purchase cost per unit, would result eventually in excess and unusable product, thus negating the lower unit cost (*Variables*, page 2, fifth and sixth full paragraphs). *Variables* discloses methodology to determine minimum total cost or minimum per useable unit (which may differ from one another) for ordering industrial supplies under the stated circumstances.

The Applicant respectfully submits that one of ordinary skill, knowing of *Rubin* and desiring a method for increasing sales volume by determining an offering price, would not look to *Variables* for that methodology. *Rubin* is concerned with the seller's point of view and discloses a method for inducing prospective buyers to order additional goods. *Variables*, in contradistinction to *Rubin*, describes methodology from the perspective of the buyer, who seeks to *minimize* ordering goods, especially in an uncertain environment. The intended purposes and the methodologies of *Rubin* and of *Variables* thus are at odds with one another. Accordingly, one of ordinary skill seeking to implement *Rubin's* method (increasing the volume of goods sold) would *avoid* methodology as in *Variables*, which would work to the disadvantage of the seller's goal.

The Applicant submits that it would not have been obvious to combine *Rubin* and *Variables* as suggested in the rejection of Claim 4. Accordingly, amended Claim 1 and the claims depending therefrom are patentable over those references.

Moreover, even if one were to modify *Rubin* by incorporating the *Variables* methodology as the rejection suggests, the result would not include the step set forth in Claim 1 for determining an offering price. Those steps come from the Applicant and are not suggested by *Variables*.

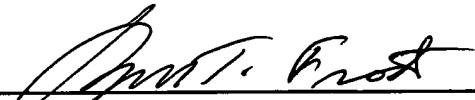
Claim 8 is amended to include the substance of formal Claim 4. Accordingly, the foregoing arguments with respect to allowability of Claim 1 apply fully to Claim 8, and the Applicant submits that Claim 8 is and the claims depending therefrom are patentable over *Rubin* in view of *Variables*.

The foregoing is submitted as a complete response to the Office Action identified above. The present application should now be in condition for allowance and the Applicant solicits a notice to that effect.

Respectfully submitted,

MERCHANT & GOULD

Date: March 16, 2005



Roger T. Frost
Reg. No. 22,176

Merchant & Gould, LLC
P.O. Box 2903
Minneapolis, MN 55402-0903
Telephone: 404.954.5100

